

REMARKS

Applicant has carefully studied the Office Action of July 20, 2005 and offers the following remarks to accompany the above amendments.

Claims 6, 12, 16, 20, 24, and 28 were rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement paragraph. Without admitting the propriety of the rejection, Applicant herein cancels claims 6, 12, 16, 20, 24, and 28, thereby mooting the rejection.

Claim 28 was rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The cancellation of claim 28 moots this rejection as well.

Claims 1-3, 7-9, 13-15, 17-19, 21-23, and 25-27 were rejected under 35 U.S.C. § 102(e) as being anticipated by Mody et al. U.S. Patent Publication No. 2002/011390 (hereinafter "Mody '390"). Applicant respectfully traverses.

Applicant herein submits a declaration under 37 C.F.R. § 1.131 showing proof of conception as early as January 2001 and diligence from before April 24, 2001 (the effective priority date of Mody '390) until filing. This declaration effectively removes Mody '390 from the pool of available prior art. Since Mody '390 is not prior art, the rejection is not properly supported. Since the rejection is not properly supported, claims 1-3, 7-9, 13-15, 17-19, 21-23, and 25-27 are allowable. Applicant requests withdrawal of the § 102 rejection of these claims at this time.

Claims 6, 12, 16, 20, 24, and 28 were rejected under 35 U.S.C. § 103 as being unpatentable over Mody '390 in view of Alamouti et al. (hereinafter "Alamouti"). Applicant respectfully traverses.

The removal of Mody '390 from the pool of available prior art also makes this rejection inappropriate. That is, Alamouti alone does not anticipate nor render the claims obvious and thus the claims are allowable. Applicant requests withdrawal of the § 103 rejection of these claims at this time.

Applicant requests reconsideration of the rejections in light of the amendments and remarks presented herein. Mody '390 is not prior art. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

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Respectfully submitted,

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